

# The Gazette of India



## EXTRAORDINARY PART II—Section 2 PUBLISHED BY AUTHORITY

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### LOK SABHA

The following Bill was introduced in Lok Sabha on the 23rd August, 1963:—

BILL No. 36 OF 1963

*A Bill to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability.*

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Personal Injuries (Compensation Insurance) Act, 1963.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may by notification appoint.

Short title,  
extent and  
commence-  
ment.

2. In this Act, unless the context otherwise requires,—

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(a) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means the latter person while the workman is working for that other person;

Definitions.



(b) the "Fund" means the Personal Injuries (Compensation Insurance) Fund constituted under section 13;

(c) "gainfully occupied person" and "personal injury" have the meanings respectively assigned to those expressions in the Personal Injuries (Emergency Provisions) Act, 1962;

5 59 of 1962.

(d) "notification" means a notification published in the Official Gazette;

(e) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time the injury was sustained, and where the disablement is of a permanent nature, such disablement as reduces his earning capacity in any employment which he was capable of undertaking at that time:

Provided that permanent partial disablement shall be deemed to result from every injury, or from any combination of injuries, specified in the Schedule, where the percentage, or the aggregate percentage, of disability as specified in the Schedule against such injury, or combination of injuries amounts to less than one hundred per cent.;

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(f) "period of the emergency" means the period beginning with 26th October, 1962, the date on which the Proclamation of Emergency under clause (1) of article 352 of the Constitution was issued, and ending with such date as the Central Government may by notification declare to be the date on which the emergency shall come to an end;

(g) "prescribed" means prescribed by rules made under section 22;

(h) "total disablement" means such disablement whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time the injury was sustained:

Provided that permanent total disablement shall be deemed to result from every injury, or from any combination of injuries, specified in the Schedule, where the percentage, or the aggregate percentage of disability as specified in the Schedule against such injury, or combination of injuries, amounts to one hundred per cent. or more.

(i) the "Scheme" means the Personal Injuries (Compensation Insurance) Scheme referred to in sub-section (1) of section 8;

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A of 1923.

(j) "wages" means wages as defined in the Workmen's Compensation Act, 1923, and "monthly wages" has the meaning assigned to that expression by section 5 of the Workmen's Compensation Act, 1923, and shall be calculated for the purposes of this Act in the manner laid down in that section;

(k) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed in any of the employments specified in section 3.

## CHAPTER II

## COMPENSATION PAYABLE UNDER THE ACT

3. The workmen to whom this Act applies are—

Workmen to whom the Act applies.

(a) workmen employed in any employment or class of employment which is, or has been declared to be, an essential service under rule 126AA of the Defence of India Rules, 1942;

63 of 1947

(b) the workmen employed in any factory as defined in clause (m) of section 2 of the Factories Act, 1948;

35 of 1952.

(c) workmen employed in any mine within the meaning of the Mines Act, 1952;

(d) workmen employed in any major port;

69 of 1951.

(e) workmen employed in any plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951;

(f) workmen employed in any employment specified in this behalf by the Central Government by notification.

59 of 1962

4. (1) There shall, subject to such conditions as may be specified in the Scheme, be payable by an employer in respect of personal injury sustained by a gainfully occupied person who is a workman to whom this Act applies, compensation, in addition to any relief provided under the Personal Injuries (Emergency Provisions) Act, 1962, of the amount and kind provided by section 7:

Compensation payable under the Act, by whom and how payable.

Provided that where an employer has taken out a policy of insurance, as required by sub-section (1) of section 9, and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme or where by the provisions of sub-section (1) of section 9 or of sub-section (2) of section 10 the employer is not required to insure, the



Central Government shall assume and discharge on behalf of the employer the employer's liability to pay compensation under this sub-section.

(2) The compensation payable under this Act shall be payable in accordance with the provisions made in this behalf in the Scheme. 5

(3) This section shall be binding on the Government.

Limitation  
on right to  
receive com-  
pensation  
otherwise  
than under  
this Act and  
Act 59 of  
1962.

5. Where any person has a right apart from the provisions of this Act and of the Personal Injuries (Emergency Provisions) Act, 1962, to receive compensation (whether in the form of gratuity, pension, compassionate payment or otherwise) or damages from an employer in respect of a personal injury in respect of which compensation is payable under this Act, the right shall extend only to so much of such compensation or damages as exceeds the amount of compensation payable under this Act. 10

Special  
provisions in  
relation to  
employees of  
Government.

6. Where any person in the employ of Government has under the rules regulating the conditions of his service a right apart from the provisions of this Act or of the Personal Injuries (Emergency Provisions) Act, 1962, to receive any sum, whether as extraordinary pension, gratuity, compassionate payment or damages, from the Government in respect of a personal injury in respect of which compensation is payable under this Act, then, notwithstanding anything contained in this Act or the Personal Injuries (Emergency Provisions) Act, 1962, that person shall have the right to receive the sum admissible under those rules and if the sum so admissible is less than the amount payable as compensation under this Act and the Personal Injuries (Emergency Provisions) Act, 1962, then, he shall have a further right to receive an amount equal to the difference between the sum admissible under those rules and the amount of compensation payable under this Act. 15 59 of 1962. 20 25

Amount of  
compensa-  
tion.

7. (1) The compensation payable under this Act shall be as follows:— 30

(a) where death results from the injury the amount payable in a like case under the Workmen's Compensation Act, 1923, reduced by the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962; 8 of 1923. 35 59 of 1962.

(b) where permanent total disablement results from the injury the amount payable in a like case under the Workmen's Compensation Act, 1923, reduced by the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962;



(c) where permanent partial disablement results from the injury—

(i) in the case of an injury specified in the Schedule—such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of disablement;

(ii) in the case of an injury not specified in the Schedule—the percentage of such compensation specified in the Schedule for disablement held by a competent medical authority acting under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, to be of corresponding degree;

(iii) where more injuries than one are sustained—the aggregate of the compensation payable in respect of those injuries, so however as not to exceed in any case the compensation which would have been payable if permanent total disability had resulted from the injuries;

(d) where temporary disablement, whether total or partial, results from the injury, the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1923, reduced in each case, so long as he receives any payment under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, by the amount payable under the said Scheme.

(2) Where the monthly wages of a workman are more than five hundred rupees, the compensation payable under this Act shall be the amount payable under the provisions of sub-section (1) in the case of a workman whose monthly wages are more than four hundred rupees.

### CHAPTER III

#### PERSONAL INJURIES (COMPENSATION INSURANCE) SCHEME

8. (1) The Central Government shall, by notification, put into operation a Scheme to be called the Personal Injuries (Compensation Insurance) Scheme whereby provision is made for all matters necessary to give effect to the purposes of this Act and whereby the Central Government undertakes, in relation to employers of workmen to whom this Act applies, the liabilities of insuring such employers against liabilities incurred by them to workmen under this Act and the Scheme.

Personal  
Injuries  
(Compensa-  
tion  
Insurance)  
Scheme.



(2) The Scheme shall secure that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued in the prescribed form by a person acting on behalf of the Central Government.

(3) The Scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.

(4) The Scheme may be amended at any time by the Central Government.

(5) Without prejudice to the generality of the provisions of sub-section (1), the Scheme may—

(a) make provisions regulating the payment of the compensation payable under this Act and the Scheme, including provisions for punishment by fine not exceeding two thousand rupees for the contravention of any requirement of the Scheme;

(b) make provisions specifying the persons to whom and the proportions and manner in which payments under this Act shall be made;

(c) make provisions for determining the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962;

59 of 1962.

(d) specify conditions or circumstances which will disentitle a workman to the compensation payable under this Act, and make it an express or implied condition of any policy of insurance issued under the Scheme that the payment of compensation in defiance of such specification is not covered by the policy;

(e) specify the conditions or circumstances under which the compensation payable to a workman may be withheld, cancelled, reduced or reviewed if the award made under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, is withheld, cancelled, reduced or reviewed;

(f) provide for cases in which an employer has of his own accord undertaken a part or the whole of the liability imposed by this Act;

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(g) provide for the final assessment of the total premium due on a policy of insurance under the Scheme either as the equivalent of all advance payments of premium already made by an employer, or as a percentage of the total wages bills of an employer for the periods with reference to which the amount of any

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advance payments made by him was fixed or as a percentage of the total wages bill of an employer for a period of not less than twelve or more than fifteen months immediately preceding the expiry of the period of the emergency, and for the assessment of the total premium due on a policy which has ceased to be in force before the expiry of the period of the emergency owing to the employer having gone out of business;

(h) provide for the recovery from an employer of the total premium due on a policy of insurance including provision for its recovery by periodic advance payments of an amount based on a percentage of his total wages bill for any prescribed period, the separate funding of the payments so made by each employer, and the eventual adjustment of the total premium as finally assessed against the total of such periodic payments:

Provided that where the amount of the periodic payment based on the total wages bill of the prescribed period is less than eight rupees, it shall be increased to eight rupees:

Provided further that the first of such periodic payments shall, subject to the aforesaid minimum of eight rupees, be at such rate as the Central Government may specify in this behalf:

Provided further that such periodic payments shall not be more frequent than once in each quarter of a year:

Provided further that the rate of any periodic payment after the first shall, subject to the aforesaid minimum of eight rupees, be such as the Central Government may, after considering its liabilities under this Act, fix from time to time, and the Central Government may, where the total amount in the Fund so requires, either waive or postpone any periodic payment.

9. (1) Every employer of workmen to whom this Act applies or is subsequently made applicable, except an employer whose total wages bill for any quarter after the commencement of this Act has never exceeded fifteen hundred rupees, shall, before such date as may be prescribed, or before the expiry of such period as may be prescribed after his having first become such an employer, take out a policy of insurance issued in accordance with the Scheme, whereby he is insured until the expiry of the period of the emergency or until the date, if any, prior to the expiry of the period of the emergency at which he ceases to be an employer to whom this section applies, against all liabilities imposed on him by this Act.

Compulsory  
insurance.

(2) Whoever contravenes the provisions of sub-section (1) or, having taken out a policy of insurance as required by that sub-section,



fails to make any payment by way of premium thereon which is subsequently due from him in accordance with the provisions of the Scheme, shall be punishable with fine which may extend to two thousand rupees and shall also be punishable with a further fine which may extend to one thousand rupees for every day after having been so convicted on which the contravention or failure continues. 5

(3) This section shall not bind the Government.

Principals  
and  
contractors.

10. (1) Where a person (in this section referred to as the principal) uses, in the course of or for the purposes of his trade or business, the services of workmen temporarily lent or let on hire to him by arrangement with another person with whom the workmen have entered into contracts of service or apprenticeship, or in the course of or for the purposes of his trade or business, contracts with any other person for the execution by or under such other person of the whole or any part of any work which is ordinarily part of the trade or business of the principal (either such other person being in this section referred to as the contractor) the principal shall obtain from the contractor the name of the agent of the Central Government acting under section 11 with whom he intends to insure, and shall report to that agent the existence of his arrangement or contract with the contractor. 15 20

(2) Notwithstanding anything elsewhere contained in this Act, in any such case as is referred to in sub-section (1), it shall not be necessary for the contractor to insure against the liabilities imposed on him by this Act in respect of workmen employed by him whose services are lent or let on hire on such an arrangement or used in the execution of work on such a contract as is referred to in sub-section (1), where the arrangement or contract is for a term of less than one month. 25

(3) The Scheme may make provision for the supply by a contractor to a principal of any information necessary to enable the purposes of this section to be carried out including provision for punishment by fine not exceeding two thousand rupees for the contravention of any requirement of the Scheme. 30

Employment of  
agents by  
the Central  
Government.

11. The Central Government may by notification employ or authorise the employment of any person to act as its agent for any of the purposes of this Act and to pay to the person so employed such remuneration as it may think fit. 35



12. (1) After the date on which the Scheme is put into operation, no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on the business of insuring employers in India against the liabilities for insurance against which the Scheme provides. Prohibition of certain insurance business.

(2) Nothing in sub-section (1) applies to any policy of insurance entered into before the date on which the Scheme is put into operation and current after that date or to any policy of insurance covering liabilities undertaken in excess of the liabilities imposed by this Act.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

15 13. (1) The Central Government may, after the due appropriation made by Parliament by law in this behalf, transfer in each financial year to a fund to be called the Personal Injuries (Compensation Insurance) Fund (hereinafter referred to as the 'Fund') such sums, as may be considered necessary, not exceeding the sums received by the Central Government by way of insurance premiums under the Scheme, or by way of payments made on composition of offences under section 18 or by way of expenses or compensation awarded by a court under section 545 of the Code of Criminal Procedure, 1898, out of any fine imposed in any prosecution under this Act or by way of penalties imposed under the Scheme. Personal Injuries (Compensation Insurance) Fund.

(2) There shall be paid from out of the Fund all sums required for the discharge by the Central Government of any of its liabilities under this Act or the Scheme or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme or for the payment by the Central Government of the cost of administering the Scheme.

Provided that no payment from the Fund shall be made in discharge of any liability of the Government to pay compensation to workmen employed by it.

35 (3) If at any time when a payment is to be made out of the Fund, the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.



(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit. 5

(5) The Central Government shall prepare in such form and manner as may be prescribed and shall publish either annually or at such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.

#### CHAPTER IV

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#### MISCELLANEOUS

Power of  
Central  
Government  
to obtain  
information.

14. (1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether the requirements of this Act and of the Scheme have been complied with, require any employer to submit to him such accounts, books or other documents or to furnish to him such information or to give such certificates as he may reasonably think necessary. 15

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees. 20

(3) Whoever in purporting to comply with his obligations under this section knowingly or recklessly makes a statement false in a material particular shall be punishable with fine which may extend to one thousand rupees. 25

Recovery of  
premium  
unpaid.

15. (1) Without prejudice to the provisions of sub-section (2) of section 9, where any person has failed to insure as or to the full amount required by this Act and the Scheme and has thereby evaded the payment by way of premium of any money which he would have had to pay in accordance with the provisions of the Scheme but for such failure, an officer authorised in this behalf by the Central Government, may determine the amount payment of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2). 30 35

(2) Any sum payable in accordance with the provisions of the Scheme by way of premium on a policy of insurance issued under the Scheme and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land-revenue. 40



(3) Any person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final.

5 16. Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section, has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the  
10 Scheme, payment of any compensation for the payment of which he is liable under this Act may be made out of the Fund, and the sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined by an officer authorised in this behalf by the Central Government shall be recoverable from  
15 the employer as an arrear of land-revenue for payment into the Fund.

Payment of compensation where an employer has failed to insure.

17. No prosecution for any offence punishable under this Act shall be instituted against any person except by or with the consent of the Central Government or an authority authorised in this behalf by the  
20 Central Government.

Limitation of prosecutions.

18. Any offence punishable under sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government on payment for  
25 credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

Composition of offences.

5 of 1898. 19. Where any offence against this Act is tried by a Presidency Magistrate or a magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898, the  
30 magistrate trying the offence may pass any sentence authorised by this Act.

Power of magistrate to impose any sentence.

20. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Bar of legal proceedings.

35 (2) No suit shall be maintainable in any civil court against the Central Government or a person acting as its agent under section 11 for the refund of any money paid or purporting to have been paid by way of premium on a policy of insurance taken out or purporting to have been taken out under this Act.



Power to  
exempt  
employers

21 The Central Government shall exempt any employer from the provisions of this Act on the employer's request, if satisfied that he has before the commencement of this Act entered into a contract with insurers substantially covering the liabilities imposed on him by this Act for so long as that contract continues

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Power to  
make rules

22 (1) The Central Government may by notification make rules to carry into effect the provisions of this Act

(2) Without prejudice to the generality of the foregoing power such rules may prescribe—

(a) the principles to be followed in ascertaining the total wages bill of an employer, including provision for the exclusion herefrom of certain categories of wages or of certain elements included in the definition of wages;

(b) the form of the policies of insurance referred to in sub-section (2) of section 8,

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(c) the period referred to in clause (g) of sub-section (5) of section 8;

(d) the date and the period referred to in sub-section (1) of section 9,

(e) the form of and the manner of preparing and publishing the account referred to in sub-section (5) of section 13;

(f) the periods referred to in sub-section (3) of section 15,

(g) any other matter which has to be or may be prescribed

Power to  
remove  
difficulties

23 If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether any compensation is payable under this Act or as to the amount thereof the Central Government may by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the decision of the Central Government, in such cases, shall be final

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Scheme to  
be laid  
before both  
Houses of  
Parliament

24 Every Scheme and every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid

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or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or the rule or both Houses agree that the Scheme or the rule should not be made, the Scheme or the rule shall thereafter have effect only in such modified form or be  
 5 of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme or the rule.

### THE SCHEDULE

[See sections 2 and 7(1)]

10	Description of injury	Percentage of disability
<i>Upper Limb</i>		
	Loss of both hands or of all fingers and thumbs . . . . .	100
15	Amputation of Right arm through shoulder . . . . .	90
	Amputation of Left arm through shoulder . . . . .	90
	Amputation below shoulder stump exceeding 6 inches from tip of acromion (Right) . . . . .	80
20	Amputation below shoulder stump not exceeding 6 inches (Right) . . . . .	90
	Amputation below shoulder stump not exceeding 6 inches (Left) . . . . .	80
	Amputation below shoulder from tip of acromion stump exceeding 6 inches (Left) . . . . .	70
25	Amputation through elbow or below elbow with stump not exceeding 5 inches (Right) . . . . .	80
	Amputation through elbow or below elbow with stump not exceeding 5 inches (Left) . . . . .	70
	Amputation below elbow stump exceeding 5 inches (Right) . . . . .	70
30	Amputation below elbow stump exceeding 5 inches (Left) . . . . .	50
	Loss of thumb (Right) . . . . .	50



Description of injury	Percentage of disability	
Loss of thumb (Left) . . . . .	40	
Loss of 4 fingers (Right) . . . . .	50	5
Loss of 4 fingers (Left) . . . . .	40	
Loss of 2 fingers on either hand . . . . .	20	
<i>Lower Limb</i>		
Loss of 2 or more limbs . . . . .	100	
Amputation of both feet . . . . .	100	10
Amputation of one leg at hip or below hip with stump not exceeding 5 inches . . . . .	90	
Lisfranc's Operation both feet . . . . .	80	
Amputation below hip with stump exceeding 5 inches . . . . .	80	
Amputation through both feet proximal to the metatarso-phalangeal joint . . . . .	80	15
Loss of all toes of both feet through the metatarso-phalangeal joint . . . . .	40	
Loss of all toes of both feet proximal to the proximal inter-phalangeal joints . . . . .	30	20
Loss of all toes of both feet distal to the proximal inter-phalangeal joint . . . . .	20	
Amputation of leg below middle thigh through knee or below knee with stump not exceeding 4 inches . . . . .	70	
Amputation of leg below knee with stump exceeding 4 inches . . . . .	60	25
Lisfranc's amputation of one foot . . . . .	40	
Amputation through one foot proximal to the metatarso-phalangeal joint . . . . .	30	
Loss of all toes of one foot proximal to the proximal inter-phalangeal joint including amputations through the metatarso-phalangeal joint . . . . .	20	30



Description of injury		Percentage of disability
<i>Other Specific injury</i>		
5	Loss of hand and foot . . . . .	100
<i>Other disabilities</i>		
	Very severe facial disfigurement . . . . .	100
	Total loss of speech . . . . .	70
10	Limited restriction of movement of joint through injury without penetration, or limited function of limb through fracture, or compound fracture of thumb or 2 or more fingers of either hand with impaired function . . . . .	20
<i>Ankyloses in optimum position i.e., the position of greatest usefulness</i>		
	<i>Right</i>	<i>Left</i>
15	<i>Arm</i>	
	Shoulder . . . . .	40%
	Elbow . . . . .	30%
	Wrist . . . . .	20%
	<i>Leg</i>	
20	Hip . . . . .	60%
	Knee . . . . .	40%
	Ankle . . . . .	30%
<i>Defective vision</i>		
	Loss of sight . . . . .	100%
25	Loss of one eye without complications, the other eye being normal . . . . .	40%
	Loss of vision of one eye with complications or disfigurement, the other eye being normal . . . . .	40%
30	Loss of vision of one eye without complications or disfigurement, the other eye being normal . . . . .	30%



*Other degree of defective vision*

When best obtainable acuity is in		Assessment	When one eye removed—best obtainable acuity in remaining eye, with or without glasses is	Assessment	
One eye	The other	Per cent.		Per cent.	
					5
1. 6/6 or	6/24 6/36 }	15·19	1. 6/6 } 2. 6/9 }		10
2. 6/9 or	6/60 3/60 }	20	3. 6/12 }	40	
3. 6/12	Nil	30	4. 6/18	50	
4. 6/18	6/18	15·19	5. 6/24	70	15
5. 6/18	6/24	30	6. 6/36	80	
6. 6/18	6/36 }				
7. 6/18	6/60 }	40	7. 6/60 }	90	
8. 6/18	6/60 }		8. 3/60 }		
9. 6/18	Nil	50			20
10. 6/24	6/24	30	9. Nil	100	
11. 6/24	6/36	40			
12. 6/24	6/60 }	50			
13. 6/24	3/60 }				
14. 6/24	Nil	70			25
15. 6/36	6/36	50			
16. 6/36	6/60 }	60			
17. 6/36	3/60 }				
18. 6/36	Nil	80			30
19. 6/60	6/60 }	80			
20. 6/60	3/60 }				
21. 6/60	Nil	90			
22. 3/60	3/60	80			
23. 5/60	Nil	90			
24. Nil	Nil	100			35



*Defective hearing*

Assessment should be based on the Grade attained using both ears together ; the percentage assessment appropriate to the Grade thus attained is given in the last column.

5	Grade	Date of hearing attained	Assessment of both ears used together
	1	Total deafness . . . . .	80%
	2	Shout not beyond 3 feet . . . . .	70%
	3	Conversational voice not over 1 foot . . . . .	60%
10	4	Conversational voice not over 3 feet . . . . .	40%
	5	Conversational voice not over 6 feet . . . . .	20%
	6	Conversational voice not over 9 feet—	
		(a) one ear totally deaf . . . . .	20%
		(b) otherwise . . . . . Less than	20%

15 A case in which the right ear attained grade 4, the left ear grade 2 and both ears together grade 3 should, therefore, be recorded thus:

R. 4 L2. R plus L3. Assessment 60 per cent.

The assessment given above take into account minor ailments such as headache, vertigo tinnitus, sleeplessness, etc., which generally accompany 20 deafness.



## STATEMENT OF OBJECTS AND REASONS

Under section 4 of the Personal Injuries (Emergency Provisions) Act, 1962, the liability of an employer to pay compensation for personal injuries (*i.e.* war injury) under the Workmen's Compensation Act, 1923, or the Employees' State Insurance Act, 1948, has been removed. The present Bill seeks—

(i) to impose on the employers of workmen in factories, mines, major ports, plantations, essential services, etc., the liability to pay compensation in respect of personal injuries to the extent the amount of compensation payable under the Workmen's Compensation Act, 1923, exceeds the amount of compensation payable under the Personal Injuries (Emergency Provisions) Act, 1962;

(ii) to provide for a scheme of insurance of the liability by the employers with Government based on premium rates which can be varied with reference to the actual nature or extent of the liability as it may exist from time to time.

2. The Bill provides for payment of compensation on a uniform basis irrespective of the fact whether a workman is covered by the Workmen's Compensation Act, 1923 or the Employees' State Insurance Act, 1948. This has been considered necessary from the point of view of the practicability, equity and the fact that the quantum of benefits under the latter Act is not fixed automatically as in the case of the former Act.

3. The premium payable by employers for compulsory insurance will be collected at quarterly intervals as is being done under the Emergency Risks (Factories) Insurance Act, 1962.

4. Exemption from compulsory insurance is proposed to be granted to small establishments whose total wages bill for any quarter is less than Rs. 1,500 because the cost of collecting the premium and the administrative charges in their case is likely to be out of proportion to the realisations made.

5. The various provisions of the Bill are explained in the notes on clauses.

NEW DELHI;

*The 16th August, 1963.*

G. L. NANDA



PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE  
CONSTITUTION OF INDIA

(Copy of letter No. 3/1/62-Spl., dated the 17th August, 1963 from Shri C. R. Patlabhi Raman, Deputy Minister of Labour, Employment and Planning to the Secretary, Lok Sabha).

The President, having been informed of the subject matter of the proposed Bill to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability, has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.



*Notes on clauses*

*Clause 1.*—This clause empowers the Central Government to enforce the statute only when there is a possibility of civilian casualties due to external aggression.

*Clause 2.*—This clause clarifies that the expressions “gainfully occupied person” and “personal injury” have the same meanings as in the Personal Injuries (Emergency Provisions) Act, 1962, and that the expression “employer” includes a contractor.

*Clause 3.*—This clause enumerates the classes of workmen to whom the statute will be applicable.

*Clause 4.*—This clause imposes on employers the liability to pay compensation to the workmen to whom the Bill would apply for “personal injuries”. It further provides that the employer’s liability to pay compensation under the Bill would be discharged by the Central Government if the employer takes out a policy of insurance as provided for in clause 9 and pays all premiums regularly. It further makes the Central Government and the State Governments liable to pay compensation for “personal injuries” sustained by their employees.

*Clause 5.*—This clause provides that where any person is entitled to the benefits of extraordinary pension, gratuity, etc., in respect of a personal injury under the conditions of his service or otherwise, and the amount of such pension, gratuity, etc., is greater than the amount payable as compensation under the Bill then he shall be paid by the Government (as insurer) the amount of compensation payable under the Bill and the difference shall be paid by the employer.

*Clause 6.*—This clause provides that if the amount of extraordinary pension, gratuity, etc., payable in respect of a personal (war) injury suffered by an employee of the Government is equal to or greater than the amount of compensation payable under the Bill, then, only the amount of extraordinary pension, gratuity, etc., shall be paid. But if the amount of such extraordinary pension, gratuity, etc., is less than the amount payable as compensation under the Bill, then, the amount payable as extraordinary pension, gratuity, etc., shall be paid in the first instance and thereafter a sum equal



to the difference between the amount of such extraordinary pension, gratuity, etc., and the amount payable as compensation under the Bill shall be paid.

*Clause 7.*—This clause provides that the amount of compensation for personal injuries shall be roughly equal to the difference between the amount of compensation payable under the Scheme framed under the Personal Injuries (Emergency Provisions) Act, 1962, and the amount of compensation payable under the Workmen's Compensation Act, 1923.

Under the Workmen's Compensation Act, 1923, the monthly wage limit for coverage is Rs. 500, and the rates of compensation are linked with wage-slabs. Workmen in the wage-slab Rs. 400·01—Rs. 500 are entitled to the maximum rates of compensation. As the Bill would cover workmen drawing monthly wages more than Rs. 500 also, provision has been made in clause 7(2) that in their case the maximum rates of compensation provided for in the Workmen's Compensation Act, 1923, for the workmen in the wage-slab Rs. 400·01—Rs. 500 would be taken into account.

*Clause 8.*—This clause empowers the Central Government to make and put into operation a scheme undertaking, in relation to employers, the liability of insuring the employers against the liabilities incurred by them under the Bill. The Scheme may, *inter alia*, regulate the payment of compensation payable under the Bill and determine the value in lump sum of the periodic payments required to be made under the Scheme framed under the Personal Injuries (Emergency Provisions) Act, 1962. This is necessary because the compensation payable under the Workmen's Compensation Act, 1923, has been expressed in lump sum.

This clause also provides for the final assessment of the total premium after the period of the emergency in the light of the total liabilities. The employers may be required to make advance payments, to be eventually adjusted against the final total premium, at quarterly intervals and at such rates as may be determined from time to time. The minimum amount of premium payable by the establishments whose quarterly wages bill is not less than Rs. 1,500 (*cf.* clause 9) has been fixed at Rs. 8 so that this is commensurate with the cost of collection and administrative charges.

*Clause 9.*—This clause makes it obligatory for every employer of workmen to whom the Bill applies, other than an employer whose total wages bill for any quarter is less than Rs. 1,500, to take out a policy of insurance in accordance with the Scheme framed under the Act. The Government as an employer will not, however, be required to take out a policy of insurance.



*Clause 10.*—This clause provides that the liabilities of a contractor, whether he lends or lets on hire the services of workmen or executes any work for a principal employer, shall not be transferred to the principal employer. The principal employer will only be required to furnish necessary information to the Central Government or its agent regarding the terms of his arrangement or contract with the contractor. This clause also exempts a contractor from insuring against the liabilities imposed by the Bill where the contract or arrangement is for a term of less than a month.

*Clause 11.*—This clause empowers the Central Government to appoint agents for any of the purposes of the Bill and to pay remuneration to such agent.

*Clause 12.*—This clause prohibits private insurers from carrying on the business of insuring employers in India against the liabilities arising under the Bill.

*Clause 13.*—This clause provides for the establishment of a Personal Injuries (Compensation Insurance) Fund, which is intended to be self-sufficient. This clause, however, empowers the Central Government to make an advance to the Fund, if it is temporarily in deficit, of any amount which may be needed for meeting the expenditure chargeable to the Fund. The intention is that the advance so made would be recouped from the future premium. This clause further provides that if there is ultimately a surplus in the Fund after providing for all the payments from the Fund, the excess shall be disposed of in such manner as the Central Government may decide.

*Clause 14.*—This clause empowers the Central Government to obtain such information or to carry out such inspections as may be necessary for enforcing the provisions of the Bill.

*Clause 15.*—This clause empowers the Central Government to recover unpaid premium as an arrear of land-revenue.

*Clause 16.*—This clause empowers the Central Government to pay compensation in the first instance from the Fund in cases where an employer has failed to insure or, having insured, has failed to pay premium and thereafter to recover the unpaid premium, together with a penalty, from the defaulting employer.

*Clauses 17 to 20.*—These clauses contain the usual provisions in regard to the limitation of prosecutions, the composition of offences, power of magistrate to impose any sentence, and bar of legal proceedings in respect of action taken in good faith under the relevant provisions of the Bill.



*Clause 21.*—This clause provides for the grant of exemption by the Central Government to employers from the provisions of the Bill if the employers have already insured against the liability imposed by the Bill.

*Clause 22.*—This clause gives power to the Central Government to frame rules for the purpose of giving effect to the provisions of the Bill.

*Clause 23.*—This clause provides for the grant of power to the Central Government to remove difficulties, if any, in giving effect to the provisions of the Bill.

*Clause 24.*—This clause makes the usual provision for laying the Scheme made under the Bill before both Houses of Parliament.

*Schedule.*—The Schedule contains a list of injuries which shall be deemed to result in permanent total disablement or permanent partial disablement, which will be compensated in accordance with paras. (b) and (c) of sub-clause (1) of clause 7.



## FINANCIAL MEMORANDUM

Clause 13 of the Bill provides that a Personal Injuries (Compensation Insurance) Fund will be established and that an amount not exceeding the amount of the premiums collected under the Scheme of insurance will be paid into that Fund after due appropriation made by Parliament by law. The Fund will be utilised to pay sums required for the payment of compensation to workmen for personal injuries, for the remuneration or expenses of agents employed for operating the insurance Scheme and for payment of the cost of administering the Scheme. The extent of liability to pay compensation will depend upon the number of casualties amongst the workmen covered by the Bill. It is not possible to make any worthwhile estimate of the likely number of casualties as this depends upon a very large number of uncertain factors. The number of workers that will be covered by the Scheme of insurance will be about 6 million. Assuming that compensation will be required to be paid to one per cent. of them and assuming that the amount of the compensation payable in respect of each person will be Rs. 3,000 on an average, the total liability would come to about Rs. 18 crores. The cost of payments of the agent's charges and administrative charges may come to about Rs. 1 crore.

The Scheme of insurance, as a whole, provides for self-adjusting income on revenue and expenditure basis. It is, therefore, expected that the Scheme may not involve any net burden on the Consolidated Fund of India over and above the obligation to transfer to the Insurance Fund from out of the Consolidated Fund, the premiums received under the Scheme. The Central Government will, of course, have to make advances to the Fund when the amount standing at the credit of the Fund at any point of time, is not adequate to discharge the purposes of the Fund. This advance will be recouped from the Fund in due course.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make and put into operation a Scheme to be called Personal Injuries (Compensation Insurance) Scheme, whereby provision is made for the insurance of employers against liabilities arising as a result of personal injuries and other connected matters. Further clause 22 of the Bill provides for framing of rules by the Central Government to carry into effect the provisions of the Bill.

The matters in respect of which provision can be made in a Scheme or rules are generally matters of procedure or detail. The delegation of power is, therefore, of a normal character.

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M. N. KAUL,  
*Secretary.*



